

bill. He wants to make it a top priority in order to prevent criminals from purchasing any type of gun. There is a procedure for it. He will, as President, instruct the Attorney General to target violent crime by making maximum use of Federal law to get dangerous gun using criminals off the streets and into prison. That is reminiscent of Operation Triggerlock—I assume that is exactly what we will have reinstituted again—which has been abandoned and turned down and discontinued by this President. There was an emphasis on the U.S. attorneys going after those who commit crimes using guns. There has been a noticeable dropoff in prosecutions for those crimes by this administration.

In conclusion, what does this action plan do? It provides a sound, sensible, thoughtful blueprint for coordinated Federal and State efforts to combat violent crime and reverse the current trends in the use of drugs that have led to so much violence in our society.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia is recognized.

Mr. COVERDELL. Mr. President, I thank the senior Senator from Mississippi very much for coming forward and speaking to this critical issue of crime and the tragedy it is causing across our country, and for highlighting these very targeted suggestions that we now have from Senator Dole to get at this core problem. I appreciate very much the Senator's remarks here this afternoon.

Senator JOHNSTON from Louisiana has just come on the floor. He has a very distinguished guest.

I yield 2 minutes to Senator JOHNSTON for the purpose of this introduction.

VISIT TO THE SENATE BY HIS EXCELLENCY JASSUM MOH'D AL-OWN, KUWAIT MINISTER OF ENERGY

Mr. JOHNSTON. Mr. President, I have the high honor of introducing to my colleagues here in the United States Senate the distinguished minister of energy from the country of Kuwait, His Excellency Jassum Moh'd Al-Own, who happens also to be a Member of the Parliament of Kuwait.

This is a very important time between our two countries. We have sealed the friendship between our two countries in battle, and that friendship persists, and will persist as long as there is a Kuwait and as long as there is a United States, which will be for many centuries, we all hope.

So, Mr. President, with a great deal of pleasure, I introduce to my colleagues the distinguished Minister of energy from Kuwait. [Applause.]

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

CRIME IN AMERICA

Mr. COVERDELL. Mr. President, undoubtedly, Senator Dole's emphasis on taking crime head-on is an outgrowth of a circumstance over the last 3 years that has just turned sour on us. It has been alluded to, but I want to cite some of the facts that have developed in the last 36 months.

First of all, I want to make it clear that there can be no doubt about it that, in the last 36 months, the United States has found itself, once again, in a massive drug epidemic. It is fueling and will continue to fuel crime. Just to cite this, in the last 36 months, marijuana use is up 105 percent, LSD is up 130 percent, cocaine up 160 percent. Somebody in the administration suggested that, actually, drug use is down. I have no idea where that data is coming from, but it must be a single source, because every other source has documented that drugs were up in virtually every category. The sad thing, Mr. President, is that they are kids.

In the last epidemic, during the 1960's and 1970's, it was a target group from about 16 to 20. It has dropped, which is such a tragedy. Now the ensnarement is occurring at age 8 to 13. This country is going to feel the impact of that for a long, long time. One in every 10 kids is using drugs.

Drug prosecutions are down 12 percent. This administration cut 625 drug agents. Federal spending on drug interdiction has been cut by 25 percent. The drug czar's office was reduced by 83 percent. On the list of national security threats, compiled by the National Security Council, this administration moved illegal drugs from No. 3, as a threat, to No. 29 out of 29.

Now, Mr. President, can there be any wonder that our children are getting the wrong message, and that they no longer think drugs are a risk, and that, therefore, they are using them in record numbers, and that, therefore, we have an epidemic, and that, therefore, we are having the emergence of a new crime wave?

Mr. President, we have been joined by one of our colleagues that has been in the center of this controversy during his entire time, which is since 1994. The distinguished Senator from Michigan is already making an impact in this area of vital concern across our country.

I yield up to 15 minutes to the Senator from Michigan.

PRESIDENT CLINTON'S VETO BY LAWYERING

Mr. ABRAHAM. Mr. President, I thank the Senator from Georgia, again, for his efforts to bring us together here to focus on various vital matters before the Senate and before the American people.

Mr. President, I have taken the floor on several previous occasions to discuss the problem of abusive prison litigation and this Congress' efforts to attack that problem.

The last time I did so was April 19, 1996. At that time, I expressed my disappointment that President Clinton

had just vetoed the Commerce-Justice-State appropriations bill.

Contained in that bill was the Prison Litigation Reform Act, a carefully crafted set of provisions designed to stem the tide of prison litigation.

In my view, this was a very important piece of legislation. Lawsuits by prisoners and lawsuits over prison conditions were completely out of hand.

One figure captures the situation very well. In fiscal year 1995, prisoners—inmates in prison—filed 63,550 civil lawsuits in our Federal court system. That is a little over one-quarter of all the civil lawsuits filed in Federal courts that year. It's also far more than the 45,788 Federal criminal prosecutions initiated that fiscal year.

In short, Mr. President, we saw, in fiscal year 1995, prison lawsuits outnumber prosecutions under our Federal system and account for one-quarter of all the lawsuits brought in this country in the Federal system.

One prisoner sued because he had been served melted ice cream. For this he claimed \$1 million in damages. Fortunately, the judge ruled that the right to eat frozen ice cream was not one of those the Framers of the Constitution had in mind.

Another sued because when his dinner tray arrived, the piece of cake on it was "hacked up."

A third sued demanding LA Gear or Reebok "Pumps" instead of Converse tennis shoes. This kind of abusive litigation is not only frivolous, it costs money and cost the taxpayers a lot of money.

The National Association of Attorneys General estimated that the States were spending about \$81 million to battle cases of the sort I just described—this even though the States win 95 percent of these cases early in the litigation for reasons that are obvious.

We were determined to do something about this problem in the Congress, so as part of the Commerce-State-Justice appropriations bill in 1996 we passed the Prison Litigation Reform Act. This legislation charged prisoners a fee for filing any lawsuit, while making it possible for the prisoners to pay that fee in installments. If a prisoner filed more than three frivolous cases, however, the prisoner would no longer be able to pay the filing fee in installments. He or she would have to pay the full fee up front, unless a court found this would create imminent risk of bodily harm.

In addition, prisoners who filed frivolous lawsuits would lose their good time credits, thus making their stay in prison longer. And judges were given authority to screen out frivolous cases on their own.

The legislation was designed to put an end to another aspect of the prison litigation problem: Seizure by Federal judges of the power to run prison systems. These seizures have consequences that range from the ridiculous to the disastrous.

In my own State of Michigan, judicial orders resulting from Justice Department lawsuits have resulted in

Federal courts monitoring our State prisons to determine how warm the food is, how bright the lights are, whether there are electrical outlets in each cell, whether the prisoners' hair is cut by licensed barbers—this despite the fact that no court has ever found that any of these conditions regarding which it is giving orders violate the Constitution.

The orders issued by a judge in Philadelphia were even worse. There a Federal judge had been overseeing what had become a program of wholesale releases of up to 600 criminal defendants per week. Why? To keep the prison population down to what the judge considered an appropriate level. Thousands of the released defendants were then rearrested for new crimes including in one 18-month period 79 murders, 90 rapes, 959 robberies, 2,215 drug dealing charges, 701 burglaries, 2,748 thefts, and 1,113 assaults.

In the interest of justice and public safety, we wanted to stop this, and the means were simple and fully in keeping with everyone's rights. We simply required in that same Prison Litigation Reform Act that no judge could take over a prison without first holding that it had violated the Constitution and explaining how the order was necessary to correct the violation. We also directed that the judge give due regard to public safety in deciding what kinds of remedies to require. And we established stringent limits on the power of the courts to order prisoners released. Existing orders would have to meet these new standards. If they did not, they would have to be dissolved immediately on motion of the prison authorities, unless the court found that the orders were necessary to correct an on-going violation of a Federal right.

Unfortunately, President Clinton vetoed that legislation. At the time, the President said his veto had nothing to do with our prison litigation proposals. Instead, he said, he was vetoing the bill over other matters.

We took the President at his word and included our proposals in a second piece of legislation. This time, the President signed the legislation. Unfortunately, the President's top ranking officials in the Department of Justice seem intent on inventing a new kind of veto, veto by lawyering.

This effort started almost as soon as the ink from the President's signing pen was dry. A mere 11 weeks after signing the bill, his Department of Justice was filing briefs all around the country that would undermine the clear intent of our legislation. The briefs claimed that, far from requiring the courts to stop running the prisons for the comfort of prisoners, that law authorized them to continue to do so indefinitely.

Thus, according to President Clinton's Justice Department, Federal judges should continue to tell Michigan how warm the food should be, how bright the lights have to be, and who should cut the prisoners' hair. And by

the logic of their position, judges should also continue to dictate prison population size and order excess prisoners released—this even if the Constitution contains no such requirement and even if the release orders jeopardize public safety. At least they should do this while they are investigating whether the prison ever violated any provision of the Constitution, an investigation that can take quite a bit of time.

The Department of Justice has come up with a host of legal theories to explain why the reform act should be read to require indefinite judicial supervision of prisons for the benefit of prisoners. It is difficult to say which is more ludicrous, the original or the current theory. The original theory, now abandoned in the face of questions from Members of this body and the National Association of Attorneys General, was that the phrase "violation of a Federal right" includes violations of the very decrees the reform act was adopted to end.

The current theory stands on its head the reform act's requirement that existing decrees be automatically stayed 30 days after a motion to end one has been filed unless there has been a final ruling on the motion.

According to the current Justice Department theory, this requirement in fact means the decrees are not automatically stayed, and, indeed, that nothing should happen to them at all until the court conducts its own exhaustive inquiry as to whether conditions at the prison have ever violated any constitutional provision.

These theories are unpersuasive, Mr. President. Even Judge Harold Baer, the subject of some attention for his theory that running away from the cops gave no grounds for reasonable suspicion, rejected these theories and ended judicial rule at Riker's Island. Judges there had been dictating such crucial matters as the brand and exact concentration of cleanser to be used in certain areas.

The theories are ludicrous but the end result is not. These interpretations make a mockery of this Congress, they make a mockery of the law, and they make a mockery of the American people's desire to have prisons run to promote the public order, not to promote the comfort of our prisoners.

Further, even if they desperately try to protect existing decrees, President Clinton's Department of Justice continues to threaten exactly the kinds of lawsuits the reform act was supposed to end.

For example, a mere 4 days after President Clinton signed the reform act, the Assistant Attorney General for Civil Rights threatened to sue Gov. Parris Glendening of Maryland over conditions in Maryland's supermaximum security prison. Supermaxes are reserved for the most dangerous prisoners, murderers and rapists who continue their violent behavior in prison.

What were the egregious unconstitutional conditions that led President

Clinton's Assistant Attorney General for Civil Rights to threaten suit? The fact that supermax prisoners are not allowed to socialize enough and are not getting enough outdoor exercise. The Department calls these conditions unconstitutional because they are the "mental equivalent of putting an asthmatic in a place with little air to breathe."

Fortunately, this particular veto by lawyering will ultimately succeed only if President Clinton's Justice Department persuades the courts to go along with it. I do not expect that it will.

So far the results are not promising for the Justice Department. So far, the judges who have decided these issues, interestingly, all of them Democratic appointees who had either taken over the running of prisons themselves or had inherited them from a predecessor who retired, rejected half the arguments urging them to retain control.

Mr. President, other parts of the Reform Act, the ones designed to cut back on individual prisoner lawsuits, which President Clinton's Department of Justice has no role in enforcing, already are showing their effects. Prisoner filings since the bill's enactment have declined sharply. Nevertheless, the Department of Justice, through its attempted veto by lawyering, is delaying and undermining the effectiveness of critical portions of the Reform Act. The Judiciary Committee will be holding a hearing on this matter next week.

It is my intention to propose an amendment to whatever proves to be the most appropriate legislation, either this year's Commerce-State-Justice appropriations bill or perhaps another omnibus appropriations bill, that clarifies once and for all it is time for abusive prison litigation to end, whether it is brought by prisoners or by President Clinton's Department of Justice.

It is unfortunate we must clarify once again the clear intent of such recently enacted legislation. But public safety and the costs of our prison system are too important for us to allow this inappropriate veto by misinterpretation.

In short, I am here today to say that if we are truly serious about getting tough with crime, we ought to begin immediately to take the Prison Litigation Reform Act and administer it in the exact clear sense that Congress intended it to be administered.

That is not happening today. I am extraordinarily disappointed by it. I intend to be on the floor as often as necessary to bring about the correct interpretation of that legislation or to add new legislation that eliminates any possibility of misinterpretation in the future. Prisons should be tough time for prisoners and the rights of victims should take priority.

That is what I believe everybody in this Chamber is committed to doing, and if necessary we will have to enact more legislation to get the job done. But I am very disappointed in the actions of the Department of Justice to

date because it is certainly inconsistent with what we demand and what the American people I believe want to see happen in the area of prison reform.

I thank the Senator from Georgia.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. I wonder if the Senator from Michigan would stay just a moment to see if I get the sequence of these events down. We had a condition of legal frivolity—if you froze an ice cream or not. I think any American who would hear this just would be dumbfounded. But your legislation put an end to that and put an end to judicial management of prisons. And the President vetoed that.

Mr. ABRAHAM. That is correct.

Mr. COVERDELL. Then you came back again, passed the essence of this legislation, and he signed it, but his Justice Department has subsequently been engaged in an overt attempt to undo it?

Mr. ABRAHAM. That is accurate. I would say to the Senator from Georgia, we were told when the first veto occurred, because this legislation was included in a broader bill, that the legislation, the Prison Litigation Reform Act, was not the basis for the veto; that, in fact, it was supported.

When the second bill was signed, we assumed the Justice Department would seek to make sure the provisions of that Litigation Reform Act would be enacted and followed by the courts. Instead, what we have seen is the Department of Justice intervening in lawsuits in a way that would, in fact, preclude, rather than allow, States to extricate themselves from these various judicial circumstances where judges were running the prison systems with no clear evidence of a constitutional violation ever having occurred. Instead, we find the Justice Department finding ways to allow the judges to stay in charge and to allow for various things such as we have seen around the country, where these prisoner lawsuits are growing in number, where judges are requiring prisons and State authorities to expend millions of taxpayer dollars simply to ensure and improve the comfort of prisoners. We think that is the wrong direction.

CRIME IN AMERICA

Mr. COVERDELL. I thank the Senator from Michigan. Again, as I said when he came to the floor, he has been very dutiful on this issue and I am comfortable will ultimately prevail.

Mr. President, a moment ago I was talking about this drug epidemic. There can be no doubt but that we had a change in policies that occurred when this administration took office. And we have had a resulting change in behavior. If you start shutting the drug war down, I think you can expect to see a reversal and we will find more and more young people caught up in this tragic problem and then society caught up in their problems.

This administration has, as we just heard, vulnerability and accountability that it has to accept with regard to the condition of crime in the country today. This administration has touted signing the assault weapon ban and Brady bill as evidence that they got tough on guns. This has been the effect: Federal gun prosecutions are down 20 percent. Federal gun convictions are down 13 percent. The U.S. attorneys' program to target gun crimes and to report on gun prosecutions, Operation Triggerlock, which the Senator from Mississippi talked about a moment ago, has been dismantled—gone. Congress authorized \$200 million for States to help with background checks under the Brady bill. Clinton's budget request has cut that figure by 68 percent. "It is fine to pass the bill, but do not fund it."

This administration claims to have put 100,000-plus cops on the streets. Myself and Senator BIDEN, the Senator from Delaware, debated that number a couple of months ago. The data is actually this: The Justice Department says the number is actually more like 17,000. Now, 17,000 is a long way from 100,000. It is questionable whether 17,000 have ended up there as well. In Florida, 30 of this 17,000—not 100,000 but 17,000. In the ads we hear 100,000, but in reality it is more like 17,000. Here is where some of the 17,000 are: They were added to the State Department of Environmental Protection to keep watch over a coral sanctuary off the Florida Keys. The cost of that was \$3.5 million.

Florida received \$1.8 million to hire 25 cops for State parks. At the same time, Florida received \$3.5 million to watch a coral reef. This Justice Department rejected a request from the St. Augustine police department, in northern Florida, to fund a 1-year antidomestic violence program. That would have cost \$80,000, to hire this officer. In other words, we do not have 100,000, we have 17,000; and of the 17,000 we have, we have them watching a coral reef off the Florida Keys but denying the ability to set up an antidomestic violence program. This is almost as baffling as some of the statistics that we heard from the Senator from Michigan.

The Justice Department admits that, of that number, as many as 14,000 were already on the streets and are now just paid for with Federal tax dollars. Mr. President, 20 percent of the 100,000 may be officers who are redeployed. So the early money has gone to existing police officers. In reality, only about 3,000 new cops have been added. That is a long way from the 100,000 to 3,000.

Mr. President, we have been joined by the senior Senator from Oklahoma, the assistant majority leader. He is a strong proponent of crime measures that work. I yield up to 8 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, first, I would like to compliment the Senator from Georgia for his leadership on call-

ing to our attention both Senator Dole's initiative to combat crime, which I think has some outstanding points that need to be brought to the public attention and public debate, and also some of the shortcomings we have witnessed through action or inaction from the Clinton administration for the last 3½ years.

First and foremost in the effort to combat crime, I think we have to combat the rapid rise in drug use amongst teenagers. Teenagers are our country's future, and it is very, very sad indeed to see that drug use amongst teenagers in the last 3½ years has more than doubled. That is a frightening statistic. It may be one of the most frightening statistics we could think of. Some of us are parents. I happen to have four kids. To think that drug use has more than doubled in just 3½ years should cause everybody, Democrat, Republican, independent, real cause for concern.

You might say why? Some people point a finger at President Clinton. I think he shares some of the blame. I remember very well Nancy Reagan and her effort to say, "Just say no to drugs." Try to convince young people to, "Just say no. Do not mess with them, do not experiment with them, you are on thin ice, you are asking for trouble and you can start down the road beginning with marijuana and maybe ending up with more serious drugs, cocaine, crack and others, that can destroy your life."

Some people have ridiculed Nancy Reagan's statement. But as a result of her efforts and those continued by President and Mrs. Bush, drug use continued to decline throughout their administrations. We had a 10-year decline in drug use among young people; and basically among all age groups, drug use declined.

Unfortunately, in the last 3½ years drug use among teenagers more than doubled. And what kind of leadership did we have from the White House? We had President Clinton making light of the fact that he had broken our drug laws. He said he did not break the drug laws, he said he never inhaled, not in this country, that was in England and, "No, I never inhaled." Then last year, on a nationally televised show, I think it was MTV, when he was asked the question by a youngster, "Would you inhale if you had a chance to do that again?" he said yes. What kind of example is that? What kind of leadership is that? That is a frivolous attitude, as if it does not really make any difference. That kind of cavalier attitude, I think, tells a lot of people, maybe it is OK to use drugs or try drugs; President Clinton tried drugs.

Then you see in the President's own administration, several people could not get White House clearance through the FBI because they had recent drug use. Not 10 years ago, not 20 years ago when they were in their early twenties or something, but recent drug use. Mr. Aldrich's book indicated that there was drug use even possibly on Inaugural